

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JENNIFER S. FISCHMAN,

Plaintiff,

v.

MITSUBISHI CHEMICAL HOLDINGS AMERICA,
INC.; MITSUBISHI CHEMICAL HOLDINGS
CORPORATION; NICOLAS OLIVA, in his individual
and professional capacities; DONNA COSTA, in her
individual and professional capacities; and JOHN
DOES 1-10, in their individual and professional
capacities,

Defendants.

Civil Action No. 18-cv-08188
(JMF)

**DECLARATION OF JEROME S. FORTINSKY
IN SUPPORT OF MITSUBISHI CHEMICAL HOLDINGS CORPORATION'S
MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

I, Jerome S. Fortinsky, an attorney duly licensed to practice in the State of New York,
hereby affirm as follows:

1. I am a partner in the firm of Shearman & Sterling LLP, counsel for defendant Mitsubishi Chemical Holdings Corporation ("MCHC") in the above-captioned action. I am a member of the bar of the State of New York.

2. I submit this Declaration, together with the attached exhibits, in support of MCHC's Motion to Dismiss the First Amended Complaint.

3. Attached hereto as the exhibits identified below are true and correct copies of the following:

- a. Exhibit A: Plaintiff's "Charge of Discrimination" (complaint) against Defendant Mitsubishi Chemical Holdings America, Inc., filed with the Equal Employment

Opportunity Commission (“EEOC”) on May 7, 2017, which Plaintiff refers to in Paragraph 9 of the First Amended Complaint.

- b. Exhibit B: the EEOC’s Notice of Right to Sue, dated June 14, 2018, which Plaintiff refers to in Paragraph 9 of the First Amended Complaint.
- c. Exhibit C: the Declaration of Yasukuni Noguchi (ECF No. 69), dated January 17, 2020, previously filed in support of MCHC’s Motion to Dismiss the Complaint on January 17, 2020.
- d. Exhibit D: the Opinion of Catherine Agnello, Administrative Law Judge for the New York State Department of Labor, dated October 24, 2017 (the “Opinion”), which Plaintiff refers to in Paragraph 90, n.1 of the Amended Complaint. Plaintiff filed an inadvertently incomplete version of the Opinion (ECF No. 1-1) in conjunction with her initial complaint. Defendant obtained a copy of the complete Opinion from Plaintiff on April 16, 2020.
- e. Exhibit E: MCHC’s Corporate Governance Report, dated May 31, 2016, which Plaintiff refers to in Paragraphs 95-100 of the First Amended Complaint.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 4, 2020 in New York, New York.

By: /s/ Jerome S. Fortinsky